

REMARKS

Claims 1-32 and 34-38 are pending in this application. By this Amendment, claims 1-7, 14, 15 and 32 are amended. Support for the amendment to may be found for example, in the original claims, specifications and drawings. Also by this amendment, claim 33 is cancelled. Claims 16-31 are withdrawn. No new matter is added. In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

I. Restriction Requirement

Applicants affirm the election of Group I, claims 1-15 and 32-38. Applicants elect with traverse, for all of the reasons previously set forth .

II. Objection to Claims

The Office Action objects to claims 14 and 15 for various informalities. By this amendment, claims 14 and 15 are amended according to the Examiner's helpful suggestions. Accordingly, reconsideration and withdrawal of the objection are respectfully requested.

III. Rejection Under 35 U.S.C. §112

The Office Action rejects claims 1-15 and 34-38 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. By this Amendment, claims 1-7, 14 and 15 are amended to address the various points raised by the Office Action. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

IV. Rejection Under 35 U.S.C. §102(b)

The Office Action rejects claims 32 and 33 as being anticipated by each of French Patent No. 2,178,442 to Bourjois ("Bourjois") and Japanese Patent Publication No. 2000-212036 by Pola ("Pola"). However, each of Bourjois and Pola does not disclose every

limitation of claim 32, and claim 33 is cancelled by this amendment. Thus, these rejections are respectfully traversed.

Claim 32 as amended specifically requires measuring colorimetric characteristics of the skin, said colorimetric characteristic comprising at least one of lightness L^* and saturation C^* , and selecting a composition suitable for lightening the skin based on the measured colorimetric characteristics. However, neither Bourjois nor Pola describes measuring colorimetric characteristics of the skin, said colorimetric characteristic comprising at least one of lightness L^* and saturation C^* , and selecting a composition suitable for lightening the skin based on the measured colorimetric characteristics.

At most, Bourjois describes a method of selecting the most flattering category of colors of cosmetic products, by superimposing various transparent templates selected based on the shape of a user's face, eyes, mouth, or eyebrows, the colors categorized generally as having a "light", "medium" or "dark" hue. The templates then indicate the category of colors that are most flattering to the user. The user then selects individual colors within the category indicated by the template. See page 3, paragraphs 6 to 8, and page 4, paragraphs 3-8.

At most, Pola describes a method of selecting skin-whitening cosmetics for use, based on both the quantity, and the uniformity of, melanin present in the user's keratinocytes. See page 1 of the translation.

In comparison, as Applicants point out in paragraphs [0005] to [0006] of the specification, one advantage of selecting a skin-lightening composition based on colorimetric characteristics of a user's skin, is that it promotes the selection of a composition that is natural-looking when applied on the user's skin. This, in turn, helps prevent the selection of a composition that creates a grayish and dull appearance when applied on the user's skin.

Because the limitation of measuring colorimetric characteristics of the skin, said colorimetric characteristic comprising at least one of lightness L^* and saturation C^* , and

selecting a composition suitable for lightening the skin based on the measured colorimetric characteristics, as recited in Applicants' claim 32 is absent from the disclosures of Bourjois and Pola, each of Bourjois and Pola does not anticipate Applicants' claim 32. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

V. Rejection Under 35 U.S.C. §103

The Office Action rejects claims 1-15 and 34-38 as being unpatentable over the combined teachings of Bourjois in view of U.S. Patent No. 5,313,267 to MacFarlane et al. ("MacFarlane"), and also as being unpatentable over Pola. The rejections are respectfully traversed.

A. A foundation cosmetic composition having homogenization and covering powers

Independent claims 1 and 2 specifically require a foundation cosmetic composition that has homogenization and covering powers of within a specific range of values when the composition is applied, according to the value of its lightness L^* , to a particular contrast card. However, none of Bourjois, MacFarlane, and Pola, alone or in combination, teach or suggest at least this feature of the claimed invention.

Applicants describe in the specification that varying the homogenization and covering powers of a foundation cosmetic composition allows for different effects to be achieved when applied on the user's skin. For example, as described in the specification at paragraph [0256], a composition with a high homogenization power can make it possible to mask skin defects, while a covering power that is not too high can allow the skin to conserve a natural appearance. Thus, it may especially be sought to select a composition that has a high homogenization power, and a covering power that is not too high.

However, none of Bourjois, MacFarlane, nor Pola suggests or teaches a foundation cosmetic composition that has homogenization and covering powers of within a specific

range of values when it is applied, according to the value of its lightness L^* , to a particular contrast card, as recited by Applicants' claims 1 and 2.

Instead, as discussed above, Bourjois teaches selecting makeup for application on a user's face, eyes, eyebrows and lips, based on the shape of the area on which the makeup is to be applied. Bourjois' makeup selection method categorizes the makeup colors as having "light," "medium" or "dark" hues. Therefore, Bourjois does not even teach or suggest using colorimetric analysis in the makeup selection process.

Similarly, MacFarlane broadly teaches formulating new colors for cosmetics, by altering the content of standard blue or yellow coloring agents. See column 4, lines 35 to 47.

Finally, Pola merely describes, on page 1, paragraph [002] of the translation, a "selecting means of whitening cosmetic to have been suitable for the individual was desired" by characterizing the melanin of a user's skin (emphasis added). Thus, Pola merely teaches the general use of a "suitable" cosmetic, and does not teach or suggest use of colorimetric analysis in the makeup selection process. In fact, the Office Action acknowledges on page 7, that Pola "does not specify cosmetics having the particular combination of physical characteristics (homogenization and cover powers)" (emphasis original).

Therefore, it would not have been obvious for one of ordinary skill in the art, in view of the teachings of Bourjois, MacFarlane, or Pola, to substitute a foundation cosmetic composition that has homogenization and covering powers of within a specific range of values when the composition is applied, according to the value of its lightness L^* , to a particular contrast card, for any of the makeup that are generally categorized as having "light," "medium" or "dark" hues, as disclosed Bourjois; or any of the formulation of new colors for cosmetics, by altering the content of standard blue or yellow coloring agents, as disclosed in MacFarlane; or any of the skin-whitening cosmetics that is "suitable" for use by a particular user, as disclosed in Pola.

The references neither disclose a foundation cosmetic composition that has homogenization and covering powers of within a specific range of values when the composition is applied, according to the value of its lightness L^* , to a particular contrast card, nor any benefits that would be provided by using such a foundation cosmetic composition that has homogenization and covering powers of within a specific range of values when the composition is applied, according to the value of its lightness L^* , to a particular contrast card.

For at least this reason, any combination of the cited references would not have rendered obvious the claimed invention. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

- B. A coloring agent having a yellow or orange coloration and having a significant reflectance in the range of 500 to 675; the presence of reflective particles; and the composition having a reflectance range from 10 to 45 % in the range from 600 to 680 nm**

Independent claims 1 and 2 as amended also specifically require a foundation cosmetic composition including: 1) a coloring agent having a yellow or orange coloration and having a significant reflectance in the range of 500 to 675; 2) the presence of reflective particles; and 3) the composition having a reflectance range from 10 to 45 % in the range from 600 to 680 nm. However, none of Bourjois, MacFarlane, and Pola, alone or in combination, teach or suggest at least this feature of the claimed invention.

As discussed above, Bourjois merely describes color cosmetic compositions as "light," "medium," and "dark," while Pola merely teaches the use of a "suitable" skin-whitening cosmetic, and MacFarlane broadly teaches formulating new colors for cosmetics, by altering the content of standard blue or yellow coloring agents.

It would not have been obvious for one of ordinary skill in the art, in view of the teachings of the cited references, to substitute a foundation cosmetic composition including:

1) a coloring agent having a yellow or orange coloration and having a significant reflectance in the range of 500 to 675; 2) the presence of reflective particles; and 3) the composition having a reflectance range from 10 to 45 % in the range from 600 to 680 nm for any of the makeup that are generally categorized as having "light," "medium" or "dark" hues, as disclosed Bourjois; or any of the formulation of new colors for cosmetics, by altering the content of standard blue or yellow coloring agents, as disclosed in MacFarlane; or any of the skin-whitening cosmetics that are "suitable" for use by a particular user, as disclosed in Pola.

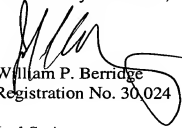
For at least this reason, any combination of the cited references would not have rendered obvious the claimed invention. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

VI. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of this application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:

Petition for Extension of Time

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